Court No. 2

Civil Misc. Writ Petition No. 1229 (S/S) of 2001
(Old No. 46093 of 1999)

Regional Manager, U.P. State Road
Transport Corporation Nainital and
another.

…… Petitioners

Verrsus

Kamal Kumar and another …… Respondents.

…….

Hon'ble P.C. Verma, J.

This writ petition has been filed by the petitioners challenging the award dated 28.09.1998, by which the reference made to the Labour Court as to whether the termination of the service of respondent No. 1, vide order dated 01.07.1996 was valid and legal.

On receipt of the reference the Labour Court issued notice to the parties and the parties filed their written statements along with the documentary evidence in support of the averments made in the written statements. The only objection raised by the employer-petitioners before the Labour Court was that the respondent No. 1 was never in the employment of the petitioners and there did not exist any relationship of master and servant between the petitioners and respondent No. 1 Therefore, there was no question of termination of service of respondent No. 1. Thus, the reference was bad and was liable to be rejected. The Labour Court has categorically recorded a finding based on the documentary evidence filed as exhibits W-1 to W-13 that the respondent No. 1 was in the employment of the petitioners. Furthermore, the certain documents, which were summoned by the Labour Court, were not produced by the petitioners which could in the opinion of the Labour Court also substantiate that respondent No. 1 was in the employment of the petitioners.

Since the Labour Court has recorded the finding based on the evidence that the respondent No. 1 was in the employment of the

petitioners, therefore no interference is called for in exercise of the power under Article 227 of the Constitution of India. The services of the respondent No.1 were terminated after nine years continuous service without following the provisions of Section 6-N of the U.P. Industiral Disputes Act. Therefore, the Labour Court has rightly directed for reinstatement of the respondent No. 1 and has rightly not allowed back wages to him.

Thus, the petition is dismissed. No order as to costs.

(P.C. Verma, J.)

26.08.2002
P.Singh